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DOCKET FILE COPY ORIGINAL

August 16, 1999

2430.002

by: Hand

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: MM Docket 99-239
Amendment of the Table of Allotments
FM Broadcast Stations
§73.202(b)
Johannesburg and Edwards California

RECEIVED

AUG 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

On behalf of Amaturio Group of LA., Ltd., I forward herewith an original and four copies of the Comments and Counterproposal of Amaturio Group of LA., Ltd. for filing in the referenced FM allotment proceeding.

These comments are timely filed.

Please feel free to call me with any questions you might have. Additionally, I would be appreciative if a copy of any correspondence regarding this matter would be directed to my attention.

With the best of regards, I am

Sincerely yours,


Bradford D. Carey

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No. of Copies rec'd 0+4
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Amendment of Section 73.202(b))
of the Commission's Rules)
FM Broadcast Station)

Edwards, California)
Johannesburg, California)

Avalon, California)
Fountain Valley, California)
Adelanto, California)
Ridgecrest, California)
Riverside, California)

To: Chief, Allocations Branch,
Mass Media Bureau

RM-

MM Docket No. 99-239

RECEIVED

AUG 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS AND COUNTERPROPOSAL
of
AMATURO GROUP OF L.A., LTD.

August 16, 1999

Amaturo Group of L.A., LTD.

By its Attorneys,

Bradford D. Carey
Ashton R. Hardy

Hardy & Carey, L.L.P.
110 Veterans Blvd.
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Metairie, Louisiana 70005
(504) 830-4644

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Comments and Counterproposal of Amaturio Group of L.A., Ltd.

Amaturio Group of L.A., Ltd ("Amaturio"), through counsel hereby states its comments on, and advances a counterproposal to, the changes to Section 73.202(b) of the Commission's Rules proposed in the Notice of Proposed Rule Making (DA-1236, released June 25, 1999).

I. AMATURO HAS STANDING TO PARTICIPATE IN THIS PROCEEDING.

A. Amaturio's Stations Compete With KEDD.

The NPRM in this proceeding seeks comments on, and counterproposals to, the proposal of Adelman Communications, Inc. to substitute channel 280 A at Edwards, California for channel 281 B1 at Johannesburg, California. Amaturio is the licensee of broadcast stations KELT, Riverside; KLIT, Avalon; and KMLT, Thousand Oaks. Additionally, Amaturio holds an option to acquire station KZIQ, Ridgecrest. (All communities are in California). As a marketplace competitor, Amaturio has standing to file comments in this proceeding.

B. Grant of Adelman's Petition May Prejudice Amaturio's Pending Proposed Changes to the Table of Allotments.

On July 15, 1999, Amaturio filed with the Commission a Petition for Rule Making ("Amaturio's Petition") seeking amendment of section 73.202(b), the Table of Allotments of FM Broadcast Stations, by

(1) re-allotment of channel 224A from Avalon, California to Fountain Valley, California and modification of Amaturio's license for station KLIT, channel 224A, Avalon, to specify operation on the channel at Fountain Valley;¹ and,

(2) re-allotment of channel 224A from Riverside, California to Adelanto, California and modification of Amaturio's license for station KELT, channel 224A, Riverside, to specify operation on the channel at Adelanto;

To accommodate these changes, Amaturio's Petition seeks modification of section 73.202(b) of the Commission's Rules and Regulations by

(3) substitution of channel 224A for channel 224B1 at Ridgecrest, California and modification of the license of station KZIQ-FM accordingly; and,

(4) specification of revised reference coordinates for station KMLT, Thousand Oaks, California.

A Technical Exhibit prepared by David E. Dickmann, in support of Amaturio's Petition, which demonstrates that the changes sought may be implemented in compliance with the Commission's technical rules is annexed to

¹ Pursuant to Section 1.420(i), the proposed allotment change can be accomplished without competition from other applicants because the Fountain Valley allotment is mutually exclusive with the present Avalon allotment and the Adelanto allotment is mutually exclusive with the Riverside allotment.

Amaturo's Petition as Exhibit One. A copy of Amaturo's Petition is annexed hereto as Attachment A.

As set forth above, Amaturo's Petition seeks down grade of the allotment on which station KZIQ-FM, Ridgecrest, California operates from channel 224B1 to channel 224A so as to accommodate the other changes sought by Amaturo. To demonstrate that its overall proposal is in the public interest, Amaturo's Petition provides extensive analysis of the gain and loss areas and populations of each station involved in its proposal.

Briefly summarized, Amaturo's studies of the areas and populations to be served by each station under the proposed allotment scheme indicate that the four stations collectively will add service to more than 2.3 million persons. Fewer than 900,000 people will lose service from one station. All of the persons who will lose one service will still receive service from five or more aural services, except that 107 people will continue to receive four aural services. Amaturo's Petition asserts that these minimal losses are more than off-set by gains. 182 people will gain their fourth and 506 people will gain their fifth aural service.

If channel 224 B1 at Ridgecrest is down-graded to class A, *and* channel 280A at Edwards is substituted for channel 280 B1 at Johannesburg some of the 107 people that would receive four instead of five services might receive three services and some four service area might be created. Amaturo believes that this should not be decisional, but submits that because the amendments to Section 73.202(b) sought by Adelman for KEDD and Amaturo for KZIQ each are based in part on the

other station being counted as a remaining reception service, the proposals should be considered in the same proceeding. Thus, Amaturo has standing to participate in this proceeding.

II. THE CHANGES SOUGHT BY AMATURO COMPLY WITH THE COMMISSION'S RULES.

As set forth in Amaturo's Petition, Attachment A hereto, the changes sought by Amaturo can be made in full compliance with the Commission's rules, policies and standards. Full spacing studies demonstrating compliance with the spacing standards, based on the new reference coordinates² for stations KLIT, KELT, KMLT and KZIQ-FM are provided in the Technical Exhibit.

III. THE PUBLIC INTEREST BENEFITS OF AMATURO'S PROPOSED CHANGES ARE COMPELLING.

The public interest will be well served by adoption of the changes to the table of allotments proposed in Amaturo's Petition.

²The Technical Exhibit demonstrates that there is an area for each allotment, in which a fully spaced transmitter site can be placed. The "reference coordinates" are located in this fully spaced area.

A. Two Communities Will Gain Their First Local Transmission Service.

Presently, neither Adelanto (population 8,517) nor Fountain Valley (population 53,691) have any aural broadcast transmission services³. Allotment of at least one channel to each community for self-expression is an important goal of the Commission. Thus, the allotment changes proposed in this Petition *ipso facto* further the public interest. Stations KISL (channel 204A) and KBRT (740 kHz) will remain at Avalon. Four FM and two AM stations will remain at Riverside. Thus, Neither Riverside nor Avalon will be deprived of local aural transmission services if the proposed changes are implemented.

B. 1.4 Million People Will Gain An Additional Reception Service.

Studies of the areas and populations to be served by each station under the amended allotment scheme proposed by Amaturro, **based on KEDD being a class B1 station at Johannesburg (as it presently is)** indicate that the four stations involved in Amaturro's proposal collectively will add service to more than 2.3 million persons. Fewer than 900,000 people will lose service from one station. Again **based on KEDD being a class B1 station at Johannesburg (as it presently is)**, all of the persons who will lose one service will still receive service from five or more aural services, except that 107 people will continue to receive four aural services. These minimal losses are more than off-set by gains. 182 people will

³The community status of Adelanto and Fountain Valley was established in Amaturro's Petition, Attachment A.

gain their fourth and 506 people will gain their fifth aural service.⁴

C. Grand-fathered Interference Areas With More Than 1.5 Million People Will Be Eliminated.

Implementation of the changes proposed by Amaturio will result in the elimination of several grand fathered overlap areas, with a cumulative population of more than 1.4 million people.

IV. ADOPTION OF AMATURO'S PROPOSED CHANGES WILL RESULT IN A MORE PREFERENTIAL ARRANGEMENT OF ALLOTMENTS.

The changes to the table of allotments proposed by Amaturio will result in a more preferential arrangement of allotments and a more equitable distribution of broadcast stations among the various communities as contemplated by Section 307(b) of the Communications Act than presently exists.

- 1) No community will lose its only local transmission service.
- 2) The two communities from which allotments are to be removed under Amaturio's proposal will continue to have local aural transmission services.
- 3) No white or grey areas will be created.
- 4) Grand-fathered interference areas would be removed.
- 5) The loss of a fifth aural service by 107 people is more than off-set by the 182 people that will gain a fourth aural service.
- 6) 506 people that will gain a fifth local service.

⁴Amaturio interposes no objection to the grant of Adelman's proposed changes to the Table of Allotments if those changes are made after, or contemporaneously with, the changes sought by Amaturio.

- 7) A net population of 1.4 million persons will gain an additional competitive local service.⁵

IV. AMATURO HAS COMMITTED THAT IF GRANTED, THE MODIFICATIONS WILL BE IMPLEMENTED.

Amaturo has committed and again hereby commits that if the Commission adopts the changes proposed herein, applications will be promptly filed for construction permits to specify operations on the new channels and at the revised reference coordinates and, if construction permits are granted, facilities will be constructed and operated on the revised allotments.⁶

V. THE PUBLIC INTEREST WOULD BE SERVED BY MODIFICATION OF THE TABLE OF ALLOTMENTS AS PROPOSED BY AMATURO.

In view of the foregoing, it is clear that the public interest would be well served by implementation of the changes proposed in Amaturo's Petition. Grandfathered interference areas would be removed, two communities would get their first radio transmission services and a large number of people would gain another audio service.

V. TO THE EXTENT THAT ADELMAN'S PETITION SEEKS CHANGES TO THE TABLE OF ALLOTMENTS THAT MIGHT REDUCE THE PUBLIC INTEREST BENEFITS OF AMATURO'S PROPOSED CHANGES, IT AND AMATURO'S PETITION MUST BE COMPARED AGAINST EACH OTHER AND AMATURO'S IS THE PREFERRED PROPOSAL.

⁵See Heartland Radio, Inc., 2 CR 449 (1996).

⁶The written agreement of the licensee of KZIQ to implement the changes proposed is attached to Amaturo's Petition.

Adelman's proposed changes to the table of allotments, and those proposed by Amaturio are not mutually electrically exclusive. However, in view of the unique factual circumstances, they are mutually exclusive to the extent that the Commission may consider the number of reception services that would remain after proposed changes to the table of allotments were granted.

Amaturio respectfully submits that the public interest would be served by the Commission granting in this proceeding the changes to the FM Table of Allotments sought in both Amaturio's Petition and those sought in the petition of Adelman. However, were the Commission to determine that the public interest would not be served by *both* substitution of channel 280A at Edwards for channel 280B1 at Johannesburg (as sought by Adelman) *and* downgrade of channel 224 at Ridgecrest from class B1 to class A (as sought by Amaturio), the Commission should select the preferred proposal in this proceeding. And, Amaturio submits, the preferred proposal under the Commission's established criteria is that of Amaturio.

Amaturio's proposal would result in two communities receiving their first local transmission service, whereas Adelman's proposal would result in only one community receiving its first local transmission service. Moreover, the population (53,691) of *one* of the communities to which Amaturio proposes to provide first local transmission service, Fountain Valley, is more than twice that claimed for Edwards under Adelman's theory of population counting.

Amaturio's proposal would result in 2.3 million people gaining a reception service, with 900,000 losing one reception service for a net gain of 1.4 million

people gaining a reception service. On the other hand, Adelman's proposal would result in 40,203 persons losing a reception service while only 25,951 persons would gain a reception service, for a net loss of a reception service by over 14,000 people.

Finally, Amaturio's proposals would result in elimination of grand fathered short-spacing interference to 1.5 million people.

VI. CONCLUSION: AMATURO'S PETITION SHOULD BE GRANTED.

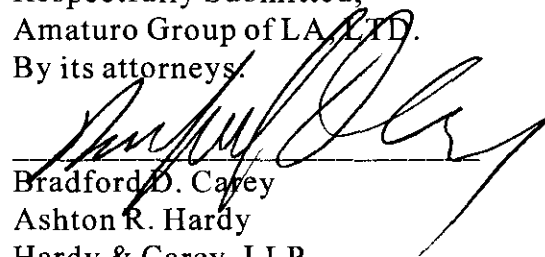
Amaturio's Petition should be granted and the Table of Allotments of FM Broadcast Stations amended as proposed by Amaturio. Amaturio submits that if its proposal is granted, the Commission should also then grant the instant proposal of Adelman. However, if comparison is necessary, when compared to the proposal advanced by Adelman in this proceeding, Amaturio's proposal is to be vastly preferred under the Commission's criteria. And, while the proposals are not mutually electrically exclusive, they are or could be mutually exclusive depending on the Commission's analysis of the number of persons that will lose one or two services if both proposals are adopted and the impact, if any, thereof.

Wherefore, premises considered, it is respectfully urged that the Commission accept the instant Comments and Counterproposal of Amaturro Group of LA, Ltd., and, after due proceedings, amend 47 C.F.R. §730202(b), the Table of Allotments of FM Broadcast Stations, as follows:

<u>City (all California)</u>	<u>Present</u>	<u>Proposed</u>
Avalon	204A, 224A	204A
Fountain Valley	- -	224A
Riverside	202A, 209A, 224A, 248B, 256B	202A, 209A, 248B, 256B
Adelanto	- -	224A
Ridgecrest	224B1, 285 B1	224A, 285B1

at the reference coordinates specified and change the allotment reference coordinates for station KMLT, Thousand Oaks as specified in the Technical Exhibit attached to the Petition for Rule Making which was filed on July 15, 1999 and of which a copy is Attachment A hereto.

Respectfully Submitted,
Amaturro Group of LA, LTD.
By its attorneys.



Bradford D. Carey
Ashton R. Hardy
Hardy & Carey, LLP
110 Veterans Memorial Blvd
Suite 300
Metairie, LA 70005
(504) 830-4646

August 16, 1999

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of Hardy & Carey, L.L.P., hereby certifies that on this date a copy of the foregoing document has ben mailed by First Class United States Mail, postage prepaid, to:

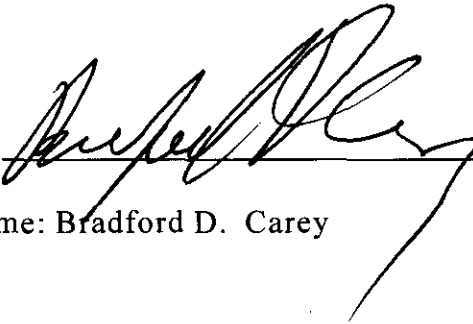
David M. Hunsaker, Esq
John C. Trent, Esq.
Putbrese, Hunsaker & Trent
100 Carpenter Drive, Suite 100
P.O. Box 217
Sterling, VA 20167-0217

KZIQ-FM attention:
James L. Knudsen & Donna L. Knudsen, Licensee
121 West Ridgecrest Blvd
Ridgecrest, CA 93555

Dated: _____

August 16

By: _____



Typed Name: Bradford D. Carey

ATTACHMENT ONE

PETITION

for

RULEMAKING

HARDY AND CAREY LLP
ATTORNEYS AT LAW
110 VETERANS BOULEVARD
SUITE 300
METAIRIE, LOUISIANA 70005
TELEPHONE 504-830-4646
TELEFAX 504-830-4659

July 14, 1999

by: Hand

2430.002

Magalie Roman Salas, Esq.
Secretary (TW-A325)
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington, DC 20554

RECEIVED

JUL 15 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

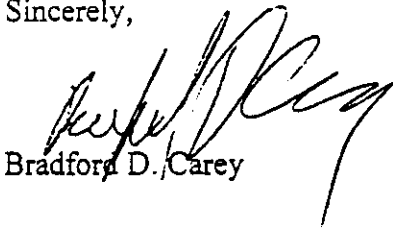
Re: Petition for Rulemaking to Amend the Table of Allotment

Dear Ms. Salas:

Enclosed is an original and six copies of a Petition for Rulemaking to Amend the Table of Allotments of FM Broadcast Stations. An additional copy is also enclosed for date-stamping, which I would appreciate you returning to me in the enclosed envelope.

If you have any questions regarding this filing, please feel free to contact me.

Sincerely,


Bradford D. Carey

BDC/cb
Enclosure

T:\2430.002\990714.lfcc.wpd

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b))	RM-
of the Commission's Rules)	
FM Broadcast Stations)	MM Docket No. _____
)	
Avalon, California)	
Fountain Valley, California)	
Adelanto, California)	
Ridgecrest, California)	
Riverside, California)	
To: Chief, Allocations Branch,		
Mass Media Bureau		

PETITION FOR RULE MAKING

July 15, 1999

Amaturo Group of LA., LTD.

By its Attorneys,

Bradford D. Carey

Ashton R. Hardy

Hardy & Carey, L.L.P.

110 Veterans Blvd.

Suite 300

Metairie, Louisiana 70005

(504) 830-4644

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Petition for Rule Making

Amaturo Group of L.A., Ltd ("Amaturo"), through counsel and pursuant to Sections 1.401 and 1.420 of the Commission's Rules, hereby petitions the Commission to amend section 73.202(b), the Table of Allotments of FM Broadcast Stations, by

(1) re-allotment of channel 224A from Avalon, California to Fountain Valley, California and modification of Amaturo's license for station KLIT, channel 224A, Avalon, to specify operation on the channel at Fountain Valley;¹ and,

(2) re-allotment of channel 224A from Riverside, California to Adelanto, California and modification of Amaturo's license for station KELT, channel 224A, Riverside, to specify operation on the channel at Adelanto;²

¹ Pursuant to Section 1.420(i), the proposed allotment change can be accomplished without competition from other applicants because the Fountain Valley allotment is mutually exclusive with the present Avalon allotment.

² Pursuant to Section 1.420(i), this proposed allotment change also can be accomplished without competition from other applicants because the Adelanto allotment is mutually exclusive with the present Riverside allotment.

To accommodate these changes. Amaturo seeks modification of section 73.202(b) of the Commission's Rules and Regulations by

- (3) substitution of channel 224A for channel 224B1 at Ridgecrest, California and modification of the license of station KZIQ-FM accordingly; and,
- (4) specification of revised reference coordinates for station KMLT, Thousand Oaks, California.

A Technical Exhibit prepared by David E. Dickmann in support of this Petition demonstrating that the changes sought may be implemented in compliance with the Commission's technical rules is annexed hereto as Exhibit One.

Amaturo is the licensee of all of the stations involved, except KZIQ-FM, Ridgecrest. James L. Knudsen & Donna L. Knudsen ("Knudsen"), the licensee of KZIQ-FM, has consented to the down-grade of KZIQ-FM as part of this proceeding provided that the other modifications sought herein by Amaturo are granted. A copy of the consent of Knudsen is annexed to this Petition as Exhibit Two.

I. THE CHANGES CAN BE MADE IN FULL COMPLIANCE WITH THE COMMISSION'S TECHNICAL RULES.

A. All Proposed Allotments Are Fully Spaced.

Under the proposal, channel 224A can be re-allotted from Avalon to Fountain Valley³ and from Riverside to Adelanto in full conformance with the Commission's technical rules including the minimum distance spacing requirements. To accommodate the Fountain Valley and Adelanto allotments, Amaturro proposes to down-grade station KZIQ-FM at Ridgecrest from channel 224B1 to channel 224A⁴ and change the reference coordinates of station KMLT, Thousand Oaks.

Full spacing studies demonstrating compliance with the spacing standards, based on the new reference coordinates⁵ for stations KLIT, KELT, KMLT and KZIQ-FM are provided in the Technical Exhibit.

³All communities are in the state of California.

⁴New allotment reference coordinates are also proposed.

⁵The Technical Exhibit demonstrates that there is an area for each allotment, in which a fully spaced transmitter site can be placed. The "reference coordinates" are located in this fully spaced area.

B. From Each Allotment Reference Site. A 70 dbu Signal Can Be Placed Over The Entire Community of License.

The Technical Exhibit demonstrates that a Class A facility⁶ located at the reference site of each new allotment can place a city-grade signal over the station's entire community of license.

II. THE PUBLIC INTEREST BENEFITS OF THE PROPOSED CHANGES ARE COMPELLING.

The public interest will be well served by adoption of the proposed changes to the table of allotments.

A. Two Communities Will Gain Their First Local Transmission Service.

Presently, neither Adelanto⁷ (population 8,517)⁸ nor Fountain Valley⁹

⁶For allotment purposes, a station operating at the class A maximum 6 kW effective radiated power with an antenna height above average terrain of 100 meters is assumed. *See Greenup, Kentucky and Athens, Ohio*, 68 RR 2d 1437 (1991). Terrain is assumed to be uniform. Population counts and land area tabulations for proposed and existing allotments are based on these assumptions.

⁷Adelanto was founded in 1915 by E. H. Richardson, the inventor of what became the Hotpoint Electric Iron. *See* Adelanto materials, annexed hereto as Exhibit 3B. In 1970, it moved from a Community Services District to an incorporated city, which now encompasses 52 square miles. Adelanto has its own Chamber of Commerce, which was formed in 1956 and its own police force with 30 full-time, sworn officers, seven reserve officers and a support staff. The Adelanto Fire Department has two stations. The City of Adelanto owns and operates its own water utility.

⁸All populations unless other wise noted are based on 1990 census.

⁹Fountain Valley was incorporated "41 years ago." *See* materials provided by the City of Fountain Valley annexed hereto as Exhibit Three A. The City of Fountain Valley provides the usual governmental services, including water delivery and trash pick-up. It covers 9.75 square miles, has a city motto, tree, flower and civic center. A large number of organizations, including a Fireman's Association, Education Council, Toastmaster's

(population 53,691) have any aural broadcast transmission services¹⁰. Allotment of at least one channel to each community for self-expression is an important goal of the Commission. Thus, the allotment changes proposed in this Petition *ipso facto* further the public interest. Stations KISL (channel 204A) and KBRT (740 kHz) will remain at Avalon. Four FM and two AM stations will remain at Riverside. Thus, Neither Riverside nor Avalon will be deprived of local aural transmission services if the proposed changes are implemented.

B. 1.4 Million People Will Gain An Additional Reception Service.

Amaturo's studies of the areas and populations to be served by each station under the proposed allotment scheme indicate that the four stations collectively will add service to more than 2.3 million persons. Fewer than 900,000 people will lose service from one station. All of the persons who will lose one service will still receive service from five or more aural services, except that 107 people will continue to receive four aural services. These minimal losses are more than off-set by gains. 182 people will gain their fourth and 506 people will gain their fifth aural service.

Association, Little League, Police Association and Historical Society call Fountain Valley home. *id.* There are nursing homes, apartment houses, motels and numerous churches in Fountain Valley.

¹⁰ Since neither Fountain Valley nor Adelanto is part of an urbanized area, no issues pertaining to movement of service to an urbanized area are presented. Moreover, the public interest is furthered by allotment of a station to a community, distinct from the urbanized area's core, notwithstanding that it is part of an urbanized area. Thus, even were either Fountain Valley or Adelanto part of an urbanized area, such fact would not negatively impact the instant proposal. See e.g. Canovanas, etc., Virgin Islands, 8 CR 1169 (1997).

C. Grand-fathered Interference Areas With More Than 1.5 Million People Will Be Eliminated.

There are 307,100 people in that portion of the 60 dBu (50,50) contour of station KELT that is overlapped by the KXFG 54 dBu (50, 10) contour and 1,248,718 people in that portion of the KELT 60 dBu contour that is overlapped by the KKUU 40 dBu (50, 10) contour. 259,479 people are in that portion of the KXFG 60 dBu contour (50, 50) that is overlapped by the KELT 54 dBu contour and there are 168,085 people in that portion of the KKUU 60 dBu contour (50, 50) that is overlapped by the KELT 54 dBu (50, 10) contour. Each of these interference areas arose due to rule changes and is "grand-fathered."

Implementation of the changes proposed in this Petition will result in the elimination of all of these overlap areas, in which there is a cumulative population of more than 1.4 million people.

III. ADOPTION OF THE PROPOSED CHANGES WILL RESULT IN A MORE PREFERENTIAL ARRANGEMENT OF ALLOTMENTS.

The changes to the table of allotments proposed herein will result in a more preferential arrangement of allotments and a more equitable distribution of broadcast stations among the various communities as contemplated by Section 307(b) of the Communications Act.

A. No Community Will Lose its Only Local Transmission Service.

As discussed above, and tabulated in the Technical Exhibit, the two communities from which allotments are to be removed will continue to have local aural transmission services. Avalon will continue to have one AM and one FM¹¹ station. Furthermore, these stations are competitive, not co-owned.¹² Riverside will continue to have four FM and two AM stations.

B. No White or Grey Areas Will Be Created.

As also discussed above, and tabulated in the Technical Exhibit, no white or grey areas will be created. The loss of a fifth aural service by 107 people is more than off-set by the 182 people that will gain a fourth aural service and the 506 people that will gain a fifth local service. Further, a net population of 1.4 million persons will gain an additional competitive local service.¹³

¹¹In performing an analysis under Section 307(b) of the Communications Act of 1934, as Amended, noncommercial educational stations are to be included. Valley Broadcasters, Inc., 67 RR 2d 937 (1990).

¹²Amendment of the Table of Allotments to move an FM service to a community which will receive its first local transmission service is in the public interest even where the remaining service in the community from which the allotment is to be deleted is a daytime only AM station. (Willows and Dunnigan, California, 1 CR 993 (Chief, Allocations Branch, 1995).

¹³See Heartland Radio, Inc., 2 CR 449 (1996).

IV. IF GRANTED, THE MODIFICATIONS WILL BE IMPLEMENTED.

Amaturo commits that if the Commission adopts the changes proposed herein, applications will be promptly filed for construction permits to specify operations on the new channels and at the revised reference coordinates and, if construction permits are granted, facilities will be constructed and operated on the revised allotments.¹⁴

V. CONCLUSION: THE PUBLIC INTEREST WOULD BE SERVED BY ADOPTION OF THE PROPOSED MODIFICATIONS TO THE TABLE OF ALLOTMENTS AND THE COMMISSION SHOULD PROCEED WITH A RULE MAKING PROCEEDING TO ADOPT THEM.

In view of the foregoing, it is clear that the public interest would be well served by implementation of the changes proposed in this Petition. Grand-fathered interference areas would be removed, two communities would get their first radio transmission services and a large number of people would gain another audio service.

It is respectfully submitted that the changes proposed in this Petition and the attached Technical Exhibit are fully consistent with the Commission's policies and rules.

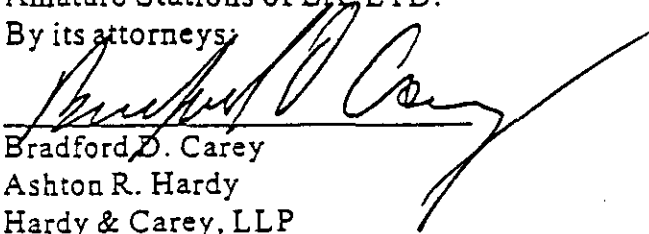
¹⁴The written agreement of the licensees of KZIQ to implement the changes proposed is attached hereto.

Wherefore, premises considered, it is respectfully urged that the Commission accept this Petition for Rule Making, issue a Notice of Proposed Rule Making and, after due proceedings, amend 47 C.F.R. §730202(b), the Table of Allotments of FM Broadcast Stations, as follows:

<u>City (all California)</u>	<u>Present</u>	<u>Proposed</u>
Avalon	204A, 224A	204A
Fountain Valley	--	224A
Riverside	202A, 209A, 224A, 248B, 256B	202A, 209A, 248B, 256B
Adelanto	--	224A
Ridgecrest	224B1, 285 B1	224A, 285B1

at the reference coordinates specified and change the allotment reference coordinates for station KMLT, Thousand Oaks as specified in the Technical Exhibit.

Respectfully Submitted,
Amaturo Stations of LA, LTD.
By its attorneys:


Bradford D. Carey
Ashton R. Hardy
Hardy & Carey, LLP
110 Veterans Memorial Blvd
Suite 300
Metairie, LA 70005
(504) 830-4646

July 15, 1999

EXHIBIT ONE

Technical Exhibit

TECHNICAL EXHIBIT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
AVALON, FOUNTAIN VALLEY, RIVERSIDE,
ADELANTO AND RIDGECREST, CALIFORNIA

Technical Narrative

This technical narrative and associated exhibits have been prepared on behalf of the Amaturio Group of L.A., Ltd. (herein "Petitioner") in support of a Petition for Rule Making to amend Section 73.202(b) by the re-allotment of channel 224A from Avalon, California to Fountain Valley, California, as that community's first local service*, and the modification of the license of station KLIT on channel 224A at Avalon, California accordingly (BLH-921202KG). Petitioner also requests the re-allotment of channel 224A from Riverside, California to Adelanto, California, as that community's first local FM service, and the modification of the license of station KELT accordingly (BLH-970715KC). Petitioner further requests that channel 224A be substituted for channel 224B1 at Ridgecrest, California, and that the license of station KZIQ-FM be modified accordingly (BLH-900403KB). As the requested change to channel 224A at Fountain Valley is mutually exclusive with the present allotment of channel 224A at Avalon, and as the requested change to channel 224A at Adelanto is mutually exclusive with the present allotment of channel 224A at Riverside, Petitioner invokes the provisions of Section 1.420(i).

In order to accommodate the changes as proposed above, petitioner also requests a change in the allotment reference point for channel 224A, Thousand Oaks, California.

* It is noted that Fountain Valley is outside the Los Angeles urbanized area as identified in the 1990 U.S. Census.

This proposed change does not require an amendment to the FM Table of Allotments as channel 224A is already allotted to Thousand Oaks. All proposed allotment reference points and the distances between them are shown in the attached Figure 1.

The following are some merits of the reallocation proposal:

- The community of Fountain Valley, California (1990 population 53,691) will be provided with its first local aural transmission service and Avalon, California (1990 population 2,981) will not be deprived of its sole "existing" local service as there will remain one FM assignment and one AM assignment at Avalon, namely, FM station KISL, channel 204A, and AM station KBRT, 740 kHz.
- The community of Adelanto, California (1990 population 8,517) will be provided with its first local aural transmission service and Riverside, California (1990 population 226,505) will not be deprived of its sole "existing" local service as there will remain four FM assignments and two AM assignments at Riverside.
- No "white" or "grey" areas will be created or eliminated because of the changes proposed.
- The proposal will eliminate a "grandfathered" short-spacing between stations KLIT, Avalon and KMLT, Thousand Oaks.
- The proposal will eliminate a "grandfathered" short-spacing between station KELT and station KXFG, channel 225A, Sun City, California.
- The proposal will eliminate a "grandfathered" short-spacing between station KELT and station KKUU, channel 224A, Indio, California.

Proposed Change in Table of Allotments

The changes in the FM Table of Allotments, as proposed herein, are summarized in the following table:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Avalon, California	204A, 224A	204A
Fountain Valley, California	--	224A
Riverside, California	202A, 209A, 224A, 243B, 256B	202A, 209A, 243B, 256B
Adelanto, California	--	224A
Ridgecrest, California	224B1, 235B1	224A, 235B1

No changes in the allotments at Thousand Oaks, California are proposed, herein, simply a change in the allotment reference coordinates for channel 224A (FM station KMLT).

Compliance With FCC Rules

Attached as Figure 2 are tabulations and maps showing required separations pertinent to use of the channels at each of the proposed allotment reference points. The reference sites comply with the Commission's minimum distance separation requirements contained in section 73.207 to all existing, authorized and proposed stations and allotments. All proposed sites are suitable for transmitter facility construction.

Figure 3 contains maps showing the principal community contours for all proposed allotment reference sites along with the city limits of each allotment city. Operation from the reference sites will provide the requisite city grade signals to all of the proposed allotment communities. The city limits shown in Figure 3 were obtained from the 1990 U.S. Census of Population. For all facilities the 3.16 mV/m contours are based on maximum facilities, and uniform terrain in all directions was assumed.

Pursuant to Section 1.420(i), the Commission will consider petitions to modify the license/construction permit of an FM station to specify a new community if the proposed

allotment would be mutually exclusive with the present assignment. As the entire area to locate for channel 224A at Fountain Valley would be short-spaced to the licensed KLIT operation on channel 224A, and as the entire area to locate for channel 224A at Adelanto would be short-spaced to the licensed KELT operation on channel 224A at Riverside; the new allotments are mutually exclusive with the existing allotments.

Gain and Loss Areas and Available Aural Services

Figure 4, attached, is a map showing the FM 1 mV/m primary service contours for all the licensed and proposed facilities. For all facilities the 1 mV/m contours are based on maximum facilities and uniform terrain in all directions, was utilized. The 1 mV/m "gain" and "loss" areas are also indicated.

Figure 5 includes maps showing the other existing aural services over the existing and proposed 1 mV/m coverage areas shown in Figure 4¹. No "white" (zero services) or "grey" (one service) areas will be created or eliminated as a result of the proposal. Within the gain and loss areas, the number of other, existing services are shown in under-served areas (fewer than five other, existing services) but not in fully-served areas (five or more other, existing services).

As can be seen in Figure 5, Sheets 1 and 3, there are five or more other existing aural services over the entire areas for the licensed and proposed allotments for KLIT at Avalon and Fountain Valley and for the licensed and proposed KMLT at Thousand Oaks. Therefore, no under-served areas will be created or eliminated as a result of these two proposed changes.

¹The determination of available reception services was based on the criteria set forth in footnote 1 of the Notice of Proposed Rule Making in MM Docket No. 96-219 (DA 96-1774; adopted October 25, 1996, released November 1, 1996).

Sheet 2 of Figure 5 shows the existing 1 mV/m coverage area for KELT at Riverside and the proposed 1 mV/m coverage area for KELT at Adelanto. As can be seen in the Figure, no under-served area will be created as a result of the proposed change, but under-served areas will be eliminated.

Sheet 4 of Figure 5 shows the existing 1 mV/m and the proposed 1 mV/m coverage area for KZLQ-FM at Ridgecrest. As can be seen in the Figure, under-served areas will be created and eliminated as a result of the proposed change.

Sheet 5 of Figure 5 is a key for identifying the other services shown on Sheets 2 and 4. In all cases, the 1 mV/m service contours based on class reference facilities were used for all commercial band FM stations (channels 221 through 300). The 1 mV/m contours based on actual facilities were used for all reserved band FM stations (channels 201 through 220). The 0.5 mV/m groundwave contours were used for Class A AM stations, and the nighttime interference-free groundwave contours were used for all other AM stations.

A summary of the gains and losses in area and population along with the number of other existing services is included in the table in Figure 6.

Determination of Coverage Contours

The FM predicted coverage contours were calculated in accordance with the provisions of Section 73.313, except that uniform terrain was presumed in all directions for commercial band FM stations. Distances to AM contours were based on either nondirectional radiation pattern values or standard radiation pattern values obtained from the FCC's AM database. FCC Figure M-3 conductivity employed along all azimuths.

Determination of Population and Area

The population within each FM primary service contour (1 mV/m) and each gain, loss, reception and interference area was calculated using a computer program that utilizes the 1990 U.S. Census database of "population centroids". The program adds the populations of those U.S. Census designated areas whose centroid was within each service area. The area within each FM primary service contour was calculated using a root mean square algorithm.

Interference Reduction

As previously mentioned, the proposal will eliminate existing short-spacings between station KELT and stations KXFG, channel 225A, Sun City, California and KKUU, channel 224A, Indio, California. Figure 7, Sheet 1 contains an allocation study for the licensed KELT and identifies the short-spaced stations. With the proposed re-allotment of KELT to Adelanto, these two short-spacings are eliminated.

It is also noted that considerable overlap of the predicted coverage and interfering contours of the stations exists. Sheet 2 of Figure 7 contains a map showing the coverage and interfering contours for KELT, KXFG and KKUU. The extent of the contour overlap can be clearly seen on the map. Sheet 3 of Figure 7 contains a tabulation summarizing the existing overlap areas and the population in each of those areas. As a result of the proposed re-allotment of KELT from Riverside to Adelanto, the existing overlap will be eliminated.

Conclusion

Channel 224A can be reallocated from Avalon, California to Fountain Valley, California in compliance with all applicable Commission Rules. In addition, channel 224A can be re-allotted from Riverside to Adelanto, California in compliance with all applicable Commission Rules. Channel

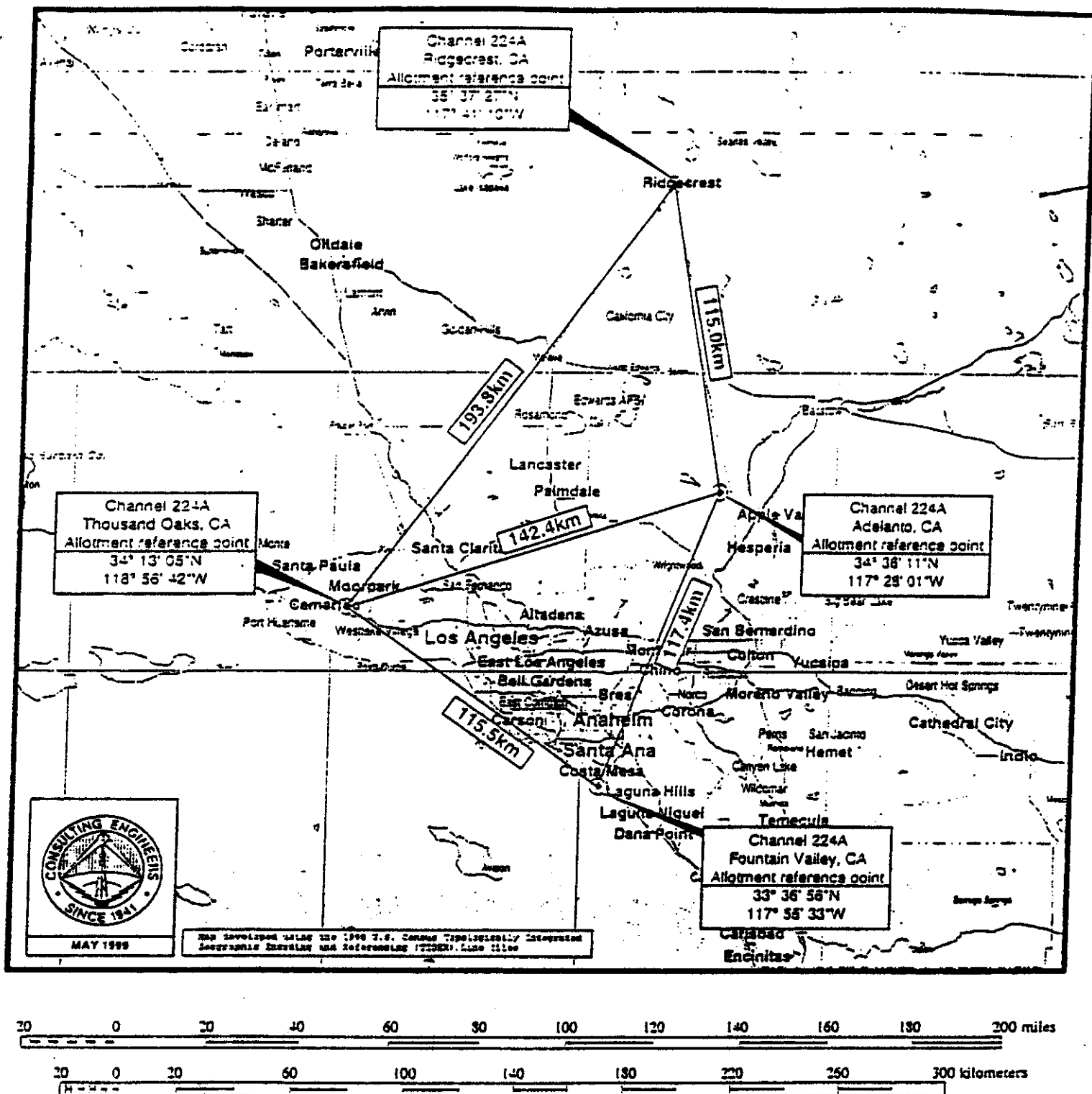
224A will remain allotted to Thousand Oaks, California and channel 224A can be allotted, instead of channel 224B1, to Ridgecrest, California. All allotments will be fully-spaced under Section 73.207 of the Commission Rules. The proposal will result in first local, aural broadcast services to Fountain Valley and Adelanto. The proposal would not deprive Avalon or Riverside of local broadcast service. The proposal will not create any "white" or "grey" areas. Therefore, Petitioner requests the re-allotment of channel 224A from Avalon to Fountain Valley, California (and the modification of the Petitioner's license for station KLIT accordingly), the re-allotment of station KELT from Riverside to Adelanto, California (and the modification of the Petitioner's license for station KELT accordingly), the substitution of channel 224A for channel 224B1 at Ridgecrest, California, and a change in the allotment reference coordinates for channel 224A at Thousand Oaks, California.

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June 1, 1999



PROPOSED ALLOTMENT SITES
FOUNTAIN VALLEY, THOUSAND OAKS,
ADELANTO AND RIDGECREST
CALIFORNIA

Ju Tzail, Lundin & Rackley, Inc. Sarasota, Florida